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*Attorneys for Plaintiff Faye Guenther*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE**

FAYE IRENE GUENTHER, an  
individual,

Plaintiff,

v.

JOSEPH H. EMMONS, individually,  
and OSPREY FIELD CONSULTING  
LLC, a limited liability company,

Defendants.

No. 2:22-cv-00272-TOR

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION TO  
RECONSIDER ORDER  
DENYING ATTORNEYS' FEES**

1 Defendants Joseph Emmons and Osprey Field Services LLC (collectively,  
2 Emmons) seek reconsideration of the Court's April 29, 2025, order (ECF No. 150)  
3 denying their fee application. Although Plaintiff Faye Guenther recognizes that no  
4 response is required at this juncture (ECF No. 34 at 7), she nonetheless offers this  
5 brief response to underscore a few critical points.

6 Guenther opposed Emmons's original fee petition (ECF No. 138) for two  
7 principal reasons. First, Emmons violated the state statute under which he seeks fees,  
8 thereby barring himself from recovering fees under that law. *See* ECF 148 at 5–6.  
9 Second, the state statute doesn't apply in federal court because, under *Erie R. Co v.*  
10 *Tompkins*, 304 U.S. 64 (1938) and its progeny, (1) taxation of costs in federal court  
11 is governed by a federal statute and RCW 4.84.250, by its terms, is a Washington  
12 statute about taxing costs; (2) even if considered a fee statute, RCW 4.84.250 is a  
13 procedural fee-shifter inapplicable in federal court; and (3) applying the state statute  
14 would administer the law inequitably because the Washington Supreme Court has  
15 held that a plaintiff has a clear right in state court to voluntarily dismiss her claims  
16 before trial without facing RCW 4.84.250 liability. *See* ECF 148 at 6–14.

17 However the Court may view the points Emmons presses in his motion for  
18 reconsideration, Guenther urges the Court to consider the reasons she raised in her  
19 original opposition to Emmons's request for fees as it evaluates his reconsideration  
20 motion. Guenther respectfully submits that her original grounds for opposing

Emmons's fee petition are dispositive and require the Court to deny his claim for fees.

Should the Court desire any further response from Guenther to Emmons's motion for reconsideration, she would be happy to provide it.

RESPECTFULLY SUBMITTED this 9th day of May, 2025.

s/Darin M. Dalmat

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## DECLARATION OF SERVICE

I hereby certify that on the date noted below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

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DATED this 9th day of May, 2025 at Seattle, Washington.

By:   
Esmeralda Valenzuela, Paralegal